**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 3992 OF 2014**

Mahendra Radheshyam Sharma ..PETITIONER

VERSUS

State of Maharashtra and Others ..RESPONDENTS

....

Mr. S.V. Kshirsagar, Advocate h/f Mr. A.S. Deshpande, Advocate for petitioner
Mr. A.S. Shinde, A.G.P. for respondent nos.1 to 3

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**CORAM : SUNIL P. DESHMUKH AND**
**R.G. AVACHAT, JJ.**
**DATED : 13th MARCH, 2019**

**ORDER :**

Heard the learned Counsel for the parties.

2. In present petition, challenge is posed to authority of the respondents to levy and demand Passenger Tax @ 70% load factor of seating capacity of passenger transport vehicle being contrary to Section 3 of the Maharashtra Motor Vehicles (Taxation of Passengers) Act, 1958.

3. In this writ petition, interim relief had been granted on 02nd May, 2014, observing that the petitioner had cleared all the demands and there had been no outstanding so far as passenger tax is concerned and the

petitioner was permitted to operate and ply vehicles in the State of Maharashtra, subject to the condition of deposit of 50% amount claimed from him. Interim relief however had been subsequently vacated on 28th February, 2019 in the absence of appearance on behalf of the petitioner.

4. It transpires that similar challenge had been posed in Writ Petition No. 5835 of 2013 to levy and demand of passenger tax at the rate of 70% load factor of seating capacity of passenger transport vehicle. The Division Bench of this Court under its judgment and order dated 11th March, 2016 has set aside such levy of tax on declaring that, the respondents have no authority in law to levy and demand passenger tax at the rate of 70% of load factor of seating capacity of passenger transport vehicle, being contrary to provisions of Maharashtra Motor Vehicles (Taxation of Passengers) Act, 1958 and such levy and demand would be impermissible for the reasons in the judgment and had restrained the respondents from demanding passenger tax on computation of 70% of load factor of the seating capacity of the passenger transport vehicle.

5. Division Bench had directed, however, to charge tax strictly in accordance with the Maharashtra Motor Vehicles (Taxation of Passengers) Act, 1958.

6. While disposing of the petition under said decision, it had been observed that the petitioners had continued to deposit 50% of the amount claimed from them and the amount so paid shall be appropriated by the State towards past liability in respect of demand of tax while the petitioners had not objected to such appropriation and observing further that in future levy and recovery of tax will be in accordance with Act. However, declaring the State to be entitled to the amount deposited / to be deposited in view of interim orders which were passed during pendency of the petitions and to take further appropriate decisions in respect of recovery of past liability/difference as per rules relied on by the petitioners themselves.

7. Having regard to the aforesaid, present petition also deserves similar treatment and accordingly is disposed of in the same terms mutatis mutandis.

**( R.G. AVACHAT, J. )** **( SUNIL P. DESHMUKH, J. )**

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